

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Fred Bradbury,

Plaintiff,

v.

Convergent Outsourcing, Inc.,

Defendants.

No. 2:14-cv-00640

Complaint and Demand for Jury Trial

Now comes Plaintiff Fred Bradbury (hereinafter referred to as "Plaintiff"), by and through his attorneys, Fredrick Schulman & Associates, Attorneys at Law, and brings this action to recover monetary damages, and declaratory and injunctive relief, against Defendant Convergent Outsourcing, Inc. (hereinafter referred to as "Defendant"), arising from Defendant's violations of 15 U.S.C. §1692 *et seq.*, commonly referred to as the Fair Debt Collection Practices Act (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in false, deceptive, misleading, or unfair collection practices, and respectfully sets forth, complains and alleges, upon information and belief, the following:

PRELIMINARY STATEMENT

COMPLIANT AND DEMAND FOR JURY
TRIAL

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FREDRICK SCHULMAN &
ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
30 East 29TH Street
New York, New York 10016
(212) 796-6053

1 The FDCPA regulates the behavior of collection agencies attempting to collect a debt on
 2 behalf of another. The United States Congress has found abundant evidence of the use of
 3 abusive, deceptive, and unfair debt collection practices by debt collectors, and has determined
 4 that abusive debt collection practices contribute to a number of personal bankruptcies, marital
 5 instability, loss of jobs, and invasions of individual privacy. Congress enacted the FDCPA to
 6 eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors
 7 who refrain from using abusive debt collection practices are not competitively disadvantaged,
 8 and to promote uniform State action to protect consumers against debt collection abuses. 15
 10 U.S.C. §1692(a)-(e).

11 The elements of an FDCPA claim are (1) the Plaintiff(s) is a consumer under 15 U.S.C.
 12 §1692a(3) or §1692c(d); (2) the debt at issue is a consumer debt under 15 U.S.C. §1692a(5); (3)
 13 the Defendant is a debt collector under 15 U.S.C. §1692a(6); and (4) that the Defendant has
 14 violated, through acts or omissions, some part of the FDCPA.

16 **JURISDICTION AND VENUE**

17 1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331, as well as 15 U.S.C.
 18 §1692 *et seq.* and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over
 19 any State law claims in this action pursuant to 28 U.S.C. §1367(a).

20 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b).

22 **PARTIES**

23 3. Plaintiff is a natural person and a resident of the State of Tennessee, Anderson County.

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 25 TRIAL

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4. At all relevant times herein, Plaintiff is a “consumer” as that term is defined in 15 U.S.C. §1692a(3) of the FDCPA.

5. Upon information and belief, Defendant Convergent Outsourcing, Inc. (“Convergent”) is a Washington corporation conducting business from offices located at 800 SW 39th Street Renton, WA 98057.

6. Defendant regularly uses the mail and telephone in a business, the principal purpose of which is the collection of debts.

7. Defendant regularly collects or attempts to collect debts for other parties, and therefore, is a “debt collector” as the phrase is defined in 15 U.S.C. §1692a(6) of the FDCPA.

FACTS

8. In or around January 2014, Defendant commenced collection activities in an attempt to collect an alleged debt (referred to hereinafter as the “Alleged Debt”) from Plaintiff originating from a personal cellular telephone bill.

9. Upon information and belief, the nature of the Alleged Debt is the type of debt the FDCPA was designed to regulate.

10. On or about January 31, 2014, Plaintiff received a letter in the mail from Defendant at his place of employment.

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11. Said letter was sent in an attempt to collect the Alleged Debt and stated that Plaintiff's total balance was \$405.88. (See Collection Letter, attached hereto and incorporated herein by reference as "Exhibit A").

12. Said letter further offered a settlement in the amount of \$101.47 to satisfy the Alleged Debt in full.

13. Lastly, said letter advised Plaintiff that paying the Alleged Debt on the internet at www.payconvergent.com would be a "convenient" way to pay.

14. Later on or about January 31, 2014, Plaintiff logged into his account on www.payconvergent.com to research the details of and pay the Alleged Debt.

15. Plaintiff's account www.payconvergent.com stated that Plaintiff owed a balance of \$1,170.46. (See Screenshot, attached hereto and incorporated herein by reference as "Exhibit B").

16. As a result of Defendant's violation of the FDCPA, Plaintiff is entitled to an award of statutory damages and all costs and reasonable attorney's fees pursuant to the relevant provisions of the FDCPA.

FIRST CAUSE OF ACTION
(Violations of 15 U.S.C §1692e)

17. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "16" herein with the same force and effect as if the same were set forth at length herein.

COMPLIANT AND DEMAND FOR JURY
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1 18. Defendant's conduct violated 15 U.S.C. §1692e, in that Defendant made false, deceptive,
2 and/or misleading representations to Plaintiff regarding the Alleged Debt.

3 19. As a result of the Defendants' violations of the FDCPA, Plaintiff has been damaged and
4 is therefore entitled to damages in accordance with the FDCPA.

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6 **SECOND CAUSE OF ACTION**
(Violation of 15 U.S.C. §1692b(2))

7 20. Plaintiff repeats, reiterates, and incorporates by reference the allegations contained in
8 paragraphs numbered "1" through "21" above with the same force and effect, as if the same were
9 set forth at length herein.

10
11 21. Defendant's conduct violated 15 U.S.C. §1692b(2) by mailing a letter to Plaintiff at his
12 place of employment. A debt collector may not send a written message that is easily accessible to
13 third parties. Courts have held that sending a letter to a consumer at his place of employment is a
14 per se violation of the FDCPA. *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1025-26
15 (9th Cir. 2012).

16
17
18 22. As a result of the Defendants' violations of the FDCPA, Plaintiff has been damaged and
19 is therefore entitled to damages in accordance with the FDCPA.

20
21 **DEMAND FOR TRIAL BY JURY**

22 23. Plaintiff respectfully requests a trial by jury for all claims and issues in this complaint.

23 **PRAYER FOR RELIEF**

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FREDRICK SCHULMAN &
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Attorney for Plaintiff
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1 **WHEREFORE**, Plaintiff Fred Bradbury demands judgment against the Defendant
2 Convergent Outsourcing, Inc. as follows:
3 A. For statutory damages provided and pursuant to 15 U.S.C. Sec.1692k(2)(A):
4 B. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
5 C. For a declaration that the Defendant is subject to the requirements of the FDCPA and its
6 practices, as alleged herein, violated the FDCPA; and,
7 D. For any such other and further relief, as well as further costs, expenses and disbursements
8 of this action, as this Court may deem just and proper.
9

10 Dated: New York, New York
11 April 30, 2014

12 Respectfully submitted,

13
14
15 By: /s/ Joshua Dabling #44792

16 Attorney for Plaintiff
17 Fredrick Schulman & Associates
18 30 East 29TH Street
19 New York, New York 10016
20 Telephone (212)796-6053
21 Fax (212) 951-7379
22 Email: info@fschulmanlaw.com
23

24 COMPLIANT AND DEMAND FOR JURY
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26 FREDRICK SCHULMAN &
ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
30 East 29TH Street
New York, New York 10016
(212) 796-6053